

**§ 25.39**

(b) National Security Information is protected under the requirements and sanctions of Executive Order 12958.

[48 FR 24320, June 1, 1983, as amended at 57 FR 55072, Nov. 24, 1992; 64 FR 15649, Apr. 1, 1999]

**§ 25.39 Criminal penalties.**

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 25 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 25 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 25.1, 25.3, 25.5, 25.7, 25.8, 25.9, 25.11, 25.19, 25.25, 25.27, 25.29, 25.31, 25.37, and 25.39.

[57 FR 55072, Nov. 24, 1992]

**APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION**

Category	Fee
Initial "L" access authorization .....	<sup>1</sup> \$130
Initial "L" access authorization (expedited processing) .....	1203
Reinstatement of "L" access authorization ...	<sup>2</sup> 130
Extension or Transfer of "L" access authorization .....	<sup>2</sup> 130
Renewal of "L" access authorization .....	1130
Initial "Q" access authorization .....	2856
Initial "Q" access authorization (expedited processing) .....	3295
Reinstatement of "Q" access authorization ..	<sup>2</sup> 2856
Reinstatement of "Q" access authorization (expedited processing) .....	<sup>2</sup> 3295
Extension or Transfer of "Q" .....	<sup>2</sup> 2856
Extension or Transfer of "Q" (expedited processing) .....	<sup>2</sup> 3295
Renewal of "Q" access authorization .....	<sup>2</sup> 1705

<sup>1</sup>If the NRC determines, based on its review of available data, that a single scope investigation is necessary, a fee of \$2856 will be assessed before the conduct of the investigation.

<sup>2</sup>Full fee will only be charged if an investigation is required.

[64 FR 15649, Apr. 1, 1999]

**PART 26—FITNESS FOR DUTY PROGRAMS**

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**APPENDIX A TO PART 26—GUIDELINES FOR DRUG AND ALCOHOL TESTING PROGRAMS**

**AUTHORITY:** Secs. 53, 81, 103, 104, 107, 161, 68 Stat. 930, 935, 936, 937, 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2111, 2112, 2133, 2134, 2137, 2201, 2297f); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

**SOURCE:** 54 FR 24494, June 7, 1989, unless otherwise noted.

**GENERAL PROVISIONS**

**§ 26.1 Purpose.**

This part prescribes requirements and standards for the establishment and maintenance of certain aspects of fitness-for-duty programs and procedures by the licensed nuclear power industry, and by licensees authorized to possess, use, or transport formula quantities of strategic special nuclear material (SSNM).

[58 FR 31469, June 3, 1993]

**§ 26.2 Scope.**

(a) The regulations in this part apply to licensees authorized to operate a nuclear power reactor, to possess or use

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formula quantities of SSNM, or to transport formula quantities of SSNM. Each licensee shall implement a fitness-for-duty program which complies with this part. The provisions of the fitness-for-duty program must apply to all persons granted unescorted access to nuclear power plant protected areas, to licensee, vendor, or contractor personnel required to physically report to a licensee's Technical Support Center (TSC) or Emergency Operations Facility (EOF) in accordance with licensee emergency plans and procedures, and to SSNM licensee and transporter personnel who:

(1) Are granted unescorted access to Category IA Material;

(2) Create or have access to procedures or records for safeguarding SSNM;

(3) Make measurements of Category IA Material;

(4) Transport or escort Category IA Material; or

(5) Guard Category IA Material.

(b) The regulations in this part do not apply to NRC employees, to law enforcement personnel, or offsite emergency fire and medical response personnel while responding onsite, or SSNM transporters who are subject to U.S. Department of Transportation drug or alcohol fitness programs that require random testing for drugs and alcohol. The regulations in this part also do not apply to spent fuel storage facility licensees or non-power reactor licensees who possess, use, or transport formula quantities of irradiated SSNM as these materials are exempt from the Category I physical protection requirements as set forth in 10 CFR 73.6.

(c) Certain regulations in this part apply to licensees holding permits to construct a nuclear power plant. Each construction permit holder, with a plant under active construction, shall comply with §§ 26.10, 26.20, 26.23, 26.70, and 26.73 of this part; shall implement a chemical testing program, including random tests; and shall make provisions for employee assistance programs, imposition of sanctions, appeals procedures, the protection of information, and recordkeeping.

(d) The regulations in this part apply to the Corporation required to obtain a certificate of compliance or an ap-

proved compliance plan under part 76 of this chapter only if the Corporation elects to engage in activities involving formula quantities of strategic special nuclear material. When applicable, the requirements apply only to the Corporation and personnel carrying out the activities specified in § 26.2(a)(1) through (5).

[58 FR 31469, June 3, 1993, as amended at 59 FR 48959, Sept. 23, 1994]

### § 26.3 Definitions.

*Aliquot* means a portion of a specimen used for testing.

*Category IA Material* means strategic special nuclear material (SSNM) directly useable in the manufacture of a nuclear explosive device, except if:

(1) The dimensions are large enough (at least 2 meters in one dimension, greater than 1 meter in each of two dimensions, or greater than 25 cm in each of three dimensions) to preclude hiding the item on an individual;

(2) The total weight of 5 formula kilograms of SSNM plus its matrix (at least 50 kilograms) cannot be carried inconspicuously by one person; or

(3) The quantity of SSNM (less than 0.05 formula kilogram) in each container requires protracted diversions in order to accumulate 5 formula kilograms.

*Commission* means the Nuclear Regulatory Commission or its duly authorized representatives.

*Confirmatory test* means a second analytical procedure to identify the presence of a specific drug or drug metabolite which is independent of the initial screening test and which uses a different technique and chemical principle from that of the initial screening test in order to ensure reliability and accuracy. For determining blood alcohol levels, a "confirmatory test" means a second test using another breath alcohol analysis device. Further confirmation upon demand will be by gas chromatography analysis of blood.

*Confirmed positive test* means the result of a confirmatory test that has established the presence of drugs, drug metabolites, or alcohol in a specimen at or above the cut-off level, and that has been deemed positive by the Medical Review Officer (MRO) after evaluation. A "confirmed positive test" for